



House of Representatives

General Assembly

File No. 542

February Session, 2016

Substitute House Bill No. 5629

House of Representatives, April 7, 2016

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A DIVERSIONARY PROGRAM FOR PERSONS UNDER AGE TWENTY-ONE FOR MOTOR VEHICLE VIOLATIONS AND CRIMES RELATED TO UNDERAGE DRINKING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 54-56e of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2016*):

4 (d) Except as provided in subsection (e) of this section, any
5 defendant who enters such program shall pay to the court a
6 participation fee of one hundred dollars. Any defendant who enters
7 such program shall agree to the tolling of any statute of limitations
8 with respect to such crime and to a waiver of the right to a speedy trial.
9 Any such defendant shall appear in court and shall, under such
10 conditions as the court shall order, be released to the custody of the
11 Court Support Services Division, except that, if a criminal docket for
12 drug-dependent persons has been established pursuant to section 51-
13 181b in the judicial district, such defendant may be transferred, under

14 such conditions as the court shall order, to the court handling such
15 docket for supervision by such court. If the defendant refuses to
16 accept, or, having accepted, violates such conditions, the defendant's
17 case shall be brought to trial. The period of such probation or
18 supervision, or both, shall not exceed two years. If the defendant has
19 reached the age of sixteen years but has not reached the age of eighteen
20 years, the court may order that as a condition of such probation the
21 defendant be referred for services to a youth service bureau
22 established pursuant to section 10-19m, provided the court finds,
23 through an assessment by a youth service bureau or its designee, that
24 the defendant is in need of and likely to benefit from such services.
25 When determining any conditions of probation to order for a person
26 entering such program who was charged with a misdemeanor that did
27 not involve the use, attempted use or threatened use of physical force
28 against another person or a motor vehicle violation, the court shall
29 consider ordering the person to perform community service in the
30 community in which the offense or violation occurred. If the court
31 determines that community service is appropriate, such community
32 service may be implemented by a community court established in
33 accordance with section 51-181c if the offense or violation occurred
34 within the jurisdiction of a community court established by said
35 section. If the defendant is charged with a violation of section 46a-58,
36 53-37a, 53a-181j, 53a-181k or 53a-181l, the court may order that as a
37 condition of such probation the defendant participate in a hate crimes
38 diversion program as provided in subsection (e) of this section. If a
39 defendant is charged with a violation of section 53-247, the court may
40 order that as a condition of such probation the defendant undergo
41 psychiatric or psychological counseling or participate in an animal
42 cruelty prevention and education program provided such a program
43 exists and is available to the defendant. If a defendant who is under
44 twenty-one years of age is charged with a motor vehicle violation or a
45 violation of section 30-88a or subsection (b) of section 30-89, the court
46 may order that as a condition of probation, the defendant participate in
47 an underage drinking, motor vehicle violation and truancy prevention
48 program approved by the Court Support Services Division of the

49 Judicial Branch. Such program shall provide a forum for such
50 offenders to hear from persons who have been affected by underage
51 drinking, drunk driving, distracted driving or other motor vehicle
52 violations or truancy and share experiences of the impact of such
53 incidents or matters on their lives. Such program shall be conducted by
54 a nonprofit organization that advocates on behalf of victims of
55 accidents caused by persons who operated a motor vehicle while
56 under the influence of alcohol.

This act shall take effect as follows and shall amend the following sections:

| | | |
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| Section 1 | October 1, 2016 | 54-56e(d) |
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Statement of Legislative Commissioners:

A reference to truancy as a crime was deleted for consistency with the general statutes.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which allows judges to order certain individuals admitted to the accelerated rehabilitation program to participate in a specified program, has no fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5629*****AN ACT CONCERNING A DIVERSIONARY PROGRAM FOR PERSONS UNDER AGE TWENTY-ONE FOR MOTOR VEHICLE VIOLATIONS AND CRIMES RELATED TO UNDERAGE DRINKING.*****SUMMARY:**

This bill allows the court to order someone under age 21 to participate in an underage drinking, motor vehicle violation, and truancy prevention program if he or she is admitted to accelerated rehabilitation (AR) based on a charge for:

1. a motor vehicle violation punishable by a possible prison term or
2. misrepresenting his or her age or using another person's driver's license to procure alcohol (CGS § 30-88a).

Under the bill, if a person under age 21 is admitted to AR on a different charge, the court may order him or her to participate in the bill's program if he or she is also charged with alcohol possession or a motor vehicle violation that is not punishable by a prison term.

Under the bill, the program must provide a forum for participants to hear from people affected by underage drinking, drunk driving, distracted driving, other motor vehicle violations, or truancy who can share their experiences of how these issues impacted their lives. The bill requires the Judicial Branch's Court Support Services Division to approve the program, which must be operated by a nonprofit organization that advocates for victims of accidents caused by drunk drivers.

If the court orders participation in the bill's program, it must make the program a condition of the person's probation under the AR

program.

EFFECTIVE DATE: October 1, 2016

BACKGROUND

Accelerated Rehabilitation

AR allows certain criminal defendants to avoid prosecution and incarceration. Defendants who successfully complete the program have their charges dismissed. Those who do not are brought to trial. A defendant who is a veteran can use the program twice; others can only use it a second time under certain circumstances.

Judges have discretion to allow a defendant to participate in AR. But a defendant is ineligible if he or she is charged with one of the following crimes:

1. a class A felony;
2. a class B felony (defendants charged with the class B felony of 1st degree larceny are eligible under certain circumstances);
3. driving under the influence (CGS § 14-227a);
4. 2nd degree manslaughter with a motor vehicle (CGS § 53a-56b);
5. 2nd degree assault with a motor vehicle (CGS § 53a-60d);
6. 2nd degree sexual assault, with a limited exception (CGS § 53a-71);
7. 3rd degree sexual assault (CGS § 53a-72a);
8. 3rd degree sexual assault with a firearm (CGS § 53a-72b);
9. enticing a minor (CGS § 53a-90a);
10. 2nd or 3rd degree possessing child pornography (CGS §§ 53a-196e and -196f);
11. a crime or motor vehicle violation causing another's death;

12. a family violence crime, if the person is eligible for the pretrial family violence education program or previously used that program;
13. possessing drugs or drug paraphernalia, if the person is eligible for the pretrial drug education and community service program or previously used the program or its predecessor;
14. a class C felony, unless the person can show good cause (but someone cannot participate if charged with 2nd degree larceny under certain circumstances);
15. certain absentee ballot crimes (CGS §§ 9-359 and -359a);
16. a motor vehicle violation while (a) operating a commercial vehicle or (b) holding a commercial driver's license or instruction permit; or
17. 2nd degree assault involving intentionally causing serious physical injury by rendering the victim unconscious by striking the victim in the head without provocation (CGS § 53a-60(a)(6)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/21/2016)